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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/802,070	03/08/2001	John M. Verbil	1830 USW 0626 PUS	5328
22193	7590	09/20/2005	EXAMINER	
QWEST COMMUNICATIONS INTERNATIONAL INC LAW DEPT INTELLECTUAL PROPERTY GROUP 1801 CALIFORNIA STREET, SUITE 3800 DENVER, CO 80202			BARNIE, REXFORD N	
			ART UNIT	PAPER NUMBER
			2643	

DATE MAILED: 09/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/802,070

Applicant(s)

VERBIL ET AL.

Examiner

REXFORD N. BARNIE

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 December 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 9-17 and 19-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) 16,17 and 19-23 is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☒ Claim(s) 26 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Rexford N. Barnie
REXFORD BARNIE
PRIMARY EXAMINER

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 9-26 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims of U.S. Patent No. 5,844,896. Although the conflicting claims are not identical, they are not patentably distinct from each other because they claims are directed to the same inventive concept with minor wording variations.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 9-15 and 24-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kaish et al. (US Pat# 5,633,924, cited by applicant) in view of Black et al. (US Pat# 5,740,234) or Fleisher et al. (US pat# 5,799,073) or Kay et al. (US Pat# 5,754,634).

Regarding claim 9, Kaish teaches in (cols. 3-5 and figs.2-3) a telecommunication system for call queuing utilization information in an intelligent network comprising:

receiving a plurality of calls to access subscriber line;

placing each received call in a queue associated with the subscriber if the line is busy, the queue implemented within the network;

collecting queue utilization information about each queued call and generating a record and generating call statistics based on queue information in (see col.6). Kaish teaches an advanced intelligent network in (see fig. 1) which includes a STP, a NCP which can store call queue information in (see fig. 2) and connected to other network elements including intelligent control point which can receive instructions from the NCP.

Kaish fails to teach a "SCP", even though, it's notoriously well known that a NCP is an equivalent term for a SCP and part of an advanced intelligent network.

Black et al. teaches a call monitoring method and apparatus in (see figs. including fig. 1) wherein an intelligent network including elements such a STP connected to a NCP and a customer terminal can be used to gather and generate call queue data in (see col. 4 lines 49-53, col. 6 lines 31-41, col. 7 lines 15-47, fig. 6, col. 11 lines 66-col. 7 lines 4).

Fleisher et al. teaches an apparatus and method for recording call related data in (see figs.) wherein an element including a ISCP can be used in collecting call detail records and sent to a processor for further analysis.

Kay et al. teaches a system and method for tracking and reporting incoming calls wherein an ISCP connected to a STP in an advanced intelligent network would be used in collecting and generating a report in (see figs. and disclosure).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teaching of either one of the secondary which teaches a database in an advanced intelligent for gathering and collecting detail record to inform customers of their traffic data to maximize marketing and revenue in the future.

Regarding claims 10-15, the combination teaches an element in addition to the SCP which can be used in reporting and generating call queue data to a user over a computer terminal in (see Black et al.). the combination fails to teach sending information over a computer network including the internet. The examiner takes official notice that it's well known in the art to send and request traffic information over the internet.

Regarding claim 24, Kaish teaches an advanced intelligent network in (see fig. 1) with elements 46, 48, 50, 16 and 20. Furthermore, Kaish teaches an intelligent peripheral (ACD network control point, 46) in communication with switches 16, 18, 20, 22, 24 and 26 and network control point 48 and signal transfer point anticipates SCP. The TAT and NEL functionality are anticipated by call waiting and agent queue

functions of the ACD terminal. The queue functionality of the ACD network control point as shown in (see fig. 2, elements 70 and 72 and call placing function in column 5 lines 40-58) anticipates IP in communication with the SCP regarding status of subscriber being idle for instance. Furthermore, according to (see col. 3 line 44-col. 40 that the SCP and IP (ACD NCP) would be in communication to controlling call completing calls and other information including send messages through a switch to update a call queue. Furthermore, call queue information can be gathered based on collected information.

Kaish fails to teach a "SCP", even though, it's notoriously well known that a NCP is an equivalent term or element for a SCP and part of an advanced intelligent network.

Black et al. teaches a call monitoring method and apparatus in (see figs. including fig. 1) wherein an intelligent network including elements such a STP connected to a NCP and a customer terminal can be used to gather and generate call queue data in (see col. 4 lines 49-53, col. 6 lines 31-41, col. 7 lines 15-47, fig. 6, col. 11 lines 66-col. 7 lines 4).

Fleisher et al. teaches an apparatus and method for recording call related data in (see figs.) wherein an element including a ISCP can be used in collecting call detail records and sent to a processor for further analysis.

Kay et al. teaches a system and method for tracking and reporting incoming calls wherein an ISCP connected to a STP in an advanced intelligent network would be used in collecting and generating a report in (see figs. and disclosure).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teaching of either one of the secondary

which teaches a database in an advanced intelligent for gathering and collecting detail record to inform customers of their traffic data to maximize marketing and revenue in the future.

Regarding claim 25, The combination teaches TAT and NEL in the form of call waiting and agent queue functionality.

Allowable Subject Matter

Claims 16, 17 and 19-23 are allowed.

Claim 26 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **REXFORD N BARNIE** whose telephone number is 571-272-7492. The examiner can normally be reached on M-F 9:00-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, CURTIS KUNTZ can be reached on 571-272-7499. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

PRIMARY EXAMINER
REXFORD BARNIE
09/16/05


REXFORD BARNIE
PRIMARY EXAMINER